



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2015-0402; FRL-9957-27-Region 1]

Approval and Promulgation of Implementation Plans; Rhode Island; Clean Air Act Infrastructure State and Federal Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is removing several obsolete Federal Implementation Plans (FIPs) for the State of Rhode Island. These FIPs address Clean Air Act (CAA) infrastructure State Implementation Plan (SIP) requirements that have since been addressed by Rhode Island in its SIP. Therefore, EPA is removing from the Code of Federal Regulations (CFR) the corresponding FIPs. This action is being taken in accordance with the CAA.

DATES: This rule is effective on **[Insert date 30 days from date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2015-0402. All documents in the docket are listed on the <http://www.regulations.gov> web site, although some information, such as confidential business

information or other information whose disclosure is restricted by statute is not publically available. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <http://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhardt, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05-02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109-3912; (617) 918-1664; burkhart.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. Public Comments

III. Final Action

IV. Statutory and Executive Order Reviews

I. Background and Purpose

This rulemaking addresses infrastructure SIP submissions from the State of Rhode Island for the 1997 fine particle matter (PM_{2.5}), 2006 PM_{2.5}, 2008 lead (Pb), 2008 ozone, 2010 nitrogen dioxide (NO₂), and 2010 sulfur dioxide (SO₂) National Ambient Air Quality Standards (NAAQS). The state submitted these infrastructure SIPs on the following dates: 1997 PM_{2.5} - September 10, 2008; 2006 PM_{2.5} - November 6, 2009; 2008 Pb – October 26, 2011; 2008 ozone – January 2, 2013; 2010 NO₂ – January 2, 2013; and 2010 SO₂ – June 27, 2014. Details of Rhode Island’s submittals and EPA evaluation of those submittals can be found in our Notice of Proposed Rulemaking (NPR) (81 FR 10168; February 29, 2016).

On April 20, 2016, EPA took final action on the vast majority of the elements included in these submittals (see 81 FR 23175). In today’s action, EPA is taking final action on its proposal to remove the following sections from the Code of Federal Regulations (CFR): 40 CFR 52.2073(b); 52.2075(b); and 52.2078(b). As discussed in detail in the NPR, these sections related to the public availability of emissions data and enforcement procedures are no longer necessary and have become obsolete since EPA has approved the relevant infrastructure SIP elements. Removal of Federal Implementation language is reserved for the Administrator, and has not been delegated to the Regional Administrator, who signed the April 20, 2016 final rulemaking referenced above.

II. Public Comments

EPA did not receive any comments in response to the NPR.

III. Final Action

EPA is removing the following sections from the CFR: 40 CFR 52.2073(b); 52.2075(b); and 52.2078(b). The Federal Implementation Plan requirements in these sections are no longer necessary since EPA has since approved the relevant Clean Air Act infrastructure SIP revisions submitted by Rhode Island (see 81 FR 23175; April 20, 2016). A detailed discussion of the rationale for our action is included in the NPR (see 81 FR 10168; February 29, 2016).

IV. STATUTORY AND EXECUTIVE ORDER REVIEWS

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under EOs 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. Entities potentially affected directly by this rule include state, local and tribal governments and none of these governments are small governments. Other types of small entities are not directly subject to the requirements of this rule.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in EO 13132.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in EO 13175. These regulation revisions do not affect the relationship or distribution of power and responsibilities between the federal government and Indian tribes.

G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

The EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to EO 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under EO 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action is not subject to EO 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is a procedural change and does not have any impact on human health or the environment.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C section 804(2). This rule will be effective [insert date 30 days from date of publication in the Federal Register].

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 15, 2016.

Gina McCarthy,
Administrator.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart OO – Rhode Island

§ 52.2073 [Removed and Reserved]

2. Section 52.2073 is removed and reserved.

§ 52.2075 [Removed and Reserved]

3. Section 52.2075 is removed and reserved.

§ 52.2078 [Removed and Reserved]

4. Section 52.2078 is removed and reserved.